

REMARKS

Claims 22-25 and 27-54 are currently pending. The Examiner has kindly withdrawn the obviousness rejection directed to Eck, Voribeff and Selvaganapathy but maintains one rejection and presents two new rejections that are addressed in the order presented below.

- I. Claims 22-25 and 27-31 are rejected under 35 USC § 103(a) as allegedly being unpatentable over *United States Patent Application Publication No. 2003/0077599* To Sogard in view of *United States Patent No. 5,169,918* To Tomishima et al.
- II. Claims 32-54 are rejected under 35 USC § 103(a) as allegedly being unpatentable over *United States Patent Application Publication No. 2003/0077599* To Sogard in view of *United States Patent No. 5,169,918* To Tomishima et al.
- III. Claims 47-50 are rejected under 35 USC § 102(b) as being anticipated by *United States Patent Application Publication No. 2002/0127152* To Bennett et al.
- IV. Claims 8, 35, and 42 are objected to for an alleged improper use of a trademarked item.

The Applicants are surprised that the Examiner is just now asserting Bennett et al. The Examiner is reminded of the duty not to unnecessarily prolong an examination by performing a 'piecemeal prosecution':

Piecemeal examination should be avoided as much as possible. The examiner ordinarily should reject each claim on all valid grounds available, avoiding, however, undue multiplication of references. (See MPEP § 904.03.)

MPEP 707.07(g). At this point in the prosecution of this application the Examiner should have previously identified all relevant references (especially patent applications).¹

I. Claims 22-25 and 27-31 Are Not Obvious

The Examiner reasserts the improper combination of Sogard and Tomishima et al. and concludes that:

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to have been motivated to modify the apparatus of Sogard to encompass an aspect ratio of at least 3.3 for the benefit of obtaining a uniform temperature distribution between the upward and downward directions of the reaction vessel as taught by Tomishima et al.

Final Office Action, pg 3. The Applicants disagree because the Examiner has not properly evaluated the previous rebuttal that Tomishima et al. is non-analogous art. Instead of answering the Applicants' response with analysis and evidence the Examiner deflects the issue by stating:

In this case, the secondary reference Tomishima et al. is not cited for it[s] use in i.e. plastics as argued by the Applicant, but rather is cited for its teaching of an apparatus as required by the instant invention having as aspect ratio as described by the Applicant's claims and instant specification.

Final Office Action pg 6. The Examiner has misunderstood the statutory regulation that art IS non-analogous if not in the Applicants' field of endeavor regardless of the alleged teaching for which the reference has been asserted.

Nonetheless, without acquiescing to the Examiner's argument but to further the prosecution, and hereby expressly reserving the right to prosecute the original (or similar) claims, Applicants have amended Claims 22, 32, and 47 to recite: i) "a plurality of reaction vessels", *Applicants' Specification, pg 4 ln 4-13; or pg 43 ln 21-22*²; ii) that different vessels may be held at different temperature differentials. *Applicants'*

¹ On this basis, as well as for other grounds, Applicants request withdrawal of finality (see attached Request).

² The specification clarifies that 'vessel' and 'chamber' are used interchangeably (pg 5 ln 24-25).

Specification, pg 3 ln 21-23; and ii) that the solution may be transferred between different vessels. Applicants' Specification, pg 43 ln 15-17. The Examiner should also note that various other dependent claims were amended in order to maintain proper antecedent basis. Further, Claims 39-46 were concomitantly canceled as being unnecessarily duplicative. This amendment is made not to acquiesce to the Examiner's argument but only to further the Applicants' business interests, better define one embodiment and expedite the prosecution of this application.

Because neither Sogard or Tomishima et al. teach the elements in the presently claimed embodiment, these combination of references fail to predict the use of cited elements functioning in a predicted manner. Consequently, the Applicants respectfully request the Examiner to withdraw the present rejection.

II. Claims 32-54 Are Not Obvious

The Examiner has essentially repeated the above rejection based upon the improper combination of Sogard and Tomishima et al. Because of the above claim amendments to Claim 32, the Applicants believe that this rejection is now moot.

The Applicants respectfully request that the Examiner withdraw the present rejection.

III. The Claims Are Not Anticipated

The Examiner has provided a new rejection found on a newly found reference (Benett et al.). The Examiner argues that Benett et al. anticipated Claim 47. The Applicants disagree. In light of the above claim amendments, made for other reasons, Benett et al. does not teach a plurality of reaction vessels between which a solution may be transferred. Instead, Benett et al. is limited to a single reaction vessel encased by a chamber unit:

The sample 30 is held in a plastic sleeve or pouch 31 inside the chamber unit 11. It may be clamped between two chamber halves 16 and 17 for better thermal contact.

Benett et al. pg 3 para [0032]. Consequently, Benett et al. does not anticipate the presently claimed embodiment and the Applicants respectfully request the Examiner withdraw the present rejection.

IV. Claims 8, 35, And 42 Are Not Objectionable

The Examiner states that:

Claim 8, 35, and 42 are objected to because use of the trademark “plexiglas” has been noted in this application. It should be *capitalized* wherever it appears and be accompanied by the generic terminology. The Applicants disagree and point out the ‘capitalization’ of trademarks in NOT a requirement but only a suggested option:

Capitalize each letter of the word in the bracket or include a proper trademark symbol, such as TM or ® following the word.

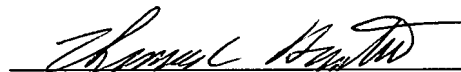
MPEP 608.01(v) Trademarks And Names Used In Trade (Examiner Note) [emphasis added]. The Applicants believe that the superscripted designation fulfils the requirement to protect the proprietary nature of the mark and that it has a fixed and definite meaning such that other explanatory language is not necessary.

The Applicants respectfully request that the Examiner withdraw the present objection.

CONCLUSION

The Applicants believe that the arguments and claim cancellations set forth above traverse the Examiner's rejections and, therefore, request that all grounds for rejection be withdrawn for the reasons set above. The remaining claims are, therefore, in condition for allowance. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, the Applicants encourage the Examiner to call the undersigned collect at 617.984.0616.

Dated: October 31, 2007



Thomas C. Howerton
Registration No. 48,650

MEDLEN & CARROLL, LLP
101 Howard Street, Suite 305
San Francisco, California 94105
617.984.0616